

MEMORANDUM OF UNDERSTANDING
AMONG THE
THE DEPARTMENT OF NATIONAL DEFENCE
OF CANADA
AND THE
SECRETARY OF STATE FOR DEFENCE
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE
DEPARTMENT OF DEFENSE
OF THE UNITED STATES OF AMERICA
CONCERNING
TRILATERAL TECHNOLOGY RESEARCH AND DEVELOPMENT PROJECTS

Dated 3 November 1998

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INTRODUCTION

The Department of National Defence of Canada (CA) , the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (UK) and the Department of Defense of the United States of America (US), hereinafter referred to as the "Participants":

Having a common interest in defense;

Recognizing the benefits to be obtained from rationalization, standardization and interoperability of military equipment;

Seeking to make the best use of their respective research and development capacities, eliminate unnecessary duplication of work and obtain the most efficient and cost-effective results through cooperation in Trilateral Technology Research and Development Projects (TTRDPs);

Recognizing the need to collectively develop emerging technologies to field technologically superior weapons;

The UK and US Participants recognizing the Agreement Concerning Defense Cooperation Arrangements of 27 May 1993 between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland will apply to this Memorandum of Understanding (MOU);

Have entered into the following understandings:

SECTION I

DEFINITIONS

1.1 The Participants have decided upon the following definitions for terms used in this TTRDP MOU:

Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking.
Contracting Agency	The entity within the government organization of a Participant, which has authority to enter into, administer, and terminate contracts.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, and terminate contracts.
Contractor	Any entity awarded a contract under a Project by a Participant's Contracting Agency.
Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under an MOU, the information will be marked to identify its "in confidence" nature. It could include information which has been declassified, but remains controlled.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of any Participant.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Project	Specific collaborative activity to research and develop basic, exploratory or advanced technologies that are described in a Project Arrangement to this MOU.
Project Arrangement (PA)	An implementing arrangement, added after the TTRDP MOU has entered into effect which specifically details the arrangements for collaboration on a specific Project.

Project
Background
Information

Information not generated in the performance
of a Project.

Project
Equipment

Any materiel, equipment, end item, subsystem,
component, special tooling or test equipment jointly acquired or
provided for use in a Project.

Project
Foreground
Information

Project Information generated in the performance
of a Project.

Project
Information

Any information provided to, generated in, or used in a
Project regardless of form or type.

Project
Invention

Any invention or discovery formulated or made, either
conceived or first actually reduced to practice in the course of work
performed under a Project. The term "first actually reduced to
practice" means the first demonstration, sufficient to establish to
one skilled in the art to which the invention pertains, of the
operability of an invention for its intended purpose and in its
intended environment.

Third Party

A government other than the government of a Participant and any
person or other entity whose government is not the government of
a Participant.

SECTION II

OBJECTIVE

2.1 The objective of this Memorandum of Understanding (MOU) is to define and establish the general principles which will apply to the initiation, conduct, and management of Projects established by separate Trilateral Technology Research and Development Project (TTRDP) Project Arrangements (PAs) entered into by representatives of all three Participants authorized in accordance with this MOU and respective national procedures.

2.2 The provisions of this MOU are incorporated by reference in each PA. Detailed provisions of each PA will be consistent with this MOU and will include, as a minimum, provisions concerning the objectives, scope of work, management structure, sharing of tasks, financial arrangements, contractual arrangements (if required), security classification, responsibilities of the Participants, and other provisions as required, in accordance with the format attached as Annex A. In the event of a conflict between the provisions of this TTRDP MOU and any PA, the TTRDP MOU will govern.

SECTION III

SCOPE OF WORK

3.1 The scope of work for this MOU will encompass collaboration on research, exploratory development, and advanced development of technologies whose maturation may lead to the development of technologically superior conventional weapon systems. PAs may range from conceptual studies to technology demonstrators.

3.2 This MOU authorizes the exchange of information specifically for the purposes of information exchange, specifically for the purposes of harmonizing the Participants' respective TTRDP requirements and for formulating, developing and negotiating PAs.

3.3 No information relating to system specific prototypes, engineering and manufacturing development or production may be transferred under this MOU or its implementing PAs. System specific prototypes, engineering and manufacturing development or production programs which may evolve from collaboration under one or more PAs to this MOU are outside the scope of this MOU.

3.4 This MOU does not preclude entering into any other arrangements in the area of research and development on basic, exploratory and advanced technology.

SECTION IV

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1 The following, or equivalent in the event of reorganization, are designated as the TTRDP MOU Principals (MPs): the Chief Research and Development (CA TTRDP/MP); the Deputy Under Secretary of State (Science and Technology) (UK TTRDP/MP); and the Deputy Under Secretary of Defense (International and Commercial Programs) (US TTRDP/MP). The TTRDP/MPs will be responsible for:

4.1.1 implementing this MOU and exercising executive-level oversight;

4.1.2 monitoring overall use and effectiveness of the MOU; and

4.1.3 recommending amendments to this MOU to the Participants.

4.2 The following, or equivalent in the event of reorganization, are designated as TTRDP Executive Agents (TTRDP/EAs): the Chief Research and Development (CA TTRDP/EA); the Director General (Research and Technology) (UK TTRDP/EA); and the appropriate US Service Acquisition Executive or Defense Agency Director (US TTRDP/EA) for those projects within their respective Military Service or Defense Agency.. The TTRDP/EAs will be responsible for

4.2.1 signing appropriate PAs in accordance with this MOU and national policies and procedures;

4.2.2 establishing an appropriate management structure for each PA considering its scope and the requirement for a Steering Committee (SC);

4.2.3 appointing SC members when deemed necessary, and Project Officers (POs);

4.2.4 giving administrative direction to appropriate SCs, if established, or POs appointed in each PA.

4.3 The SC, if established, will be responsible for:

4.3.1 providing policy and management direction to the POs during PA execution;

4.3.2 monitoring overall implementation, including technical, cost, and schedule performance against requirements; and

4.3.3 reporting status and activity of assigned PAs on an annual basis to the TTRDP/EAs and TTRDP/MPs.

4.4 The POs will have primary responsibilities for effective implementation, efficient management and direction of their assigned PA including technical, cost, and schedule performance against requirements. Additionally, the POs will be responsible for paragraph 4.3.3 above when no SC is established for their assigned PA.

4.5 The TTRDP/EAs, SCs and POs will meet as required, rotating meetings among the United States, Canada and the United Kingdom. The Chairman for each meeting will be the senior official of the host nation. During such meetings, all decisions require unanimity, each Participant having one vote.

SECTION V

FINANCIAL ARRANGEMENTS

5.1 Each Participant will contribute its equitable share of the full financial costs and non-financial costs incurred in performing, managing, and administering its responsibilities under this MOU and each PA, including overhead costs, administrative costs, and costs of claims, and each Participant will receive an equitable share of the results. The tasks to be performed by each Participant will be established in each PA. The assignment of tasks will represent an equitable sharing of the costs of work to be performed under the PA.

5.2 Any responsibilities of the Participants under this MOU that require the expenditure of funds will be subject to the availability of appropriated funds for such purposes. Each Participant will promptly notify the other Participants if available funds are not adequate to fulfill its financial responsibilities under this MOU or its PAs, and will immediately consult on the course of action to be taken with a view toward continuation on a changed or reduced basis.

5.3 This MOU in and of itself creates no financial or non-financial responsibilities regarding individual PAs; however, detailed descriptions of the financial arrangements for a specific Project, including, at a minimum, the total cost of the Project and each Participant's share, will be contained in the PA.

5.4 The Participants will endeavor to perform, or have performed, work specified in each PA within the costs specified in each PA.

5.5 Each Participant will bear the full costs it incurs for performing, managing, and administering its activities under this MOU and participation in each PA, including its share of the costs of any contract under the auspices of paragraph 5.7 below.

5.6 The following costs will be borne entirely by the Participant incurring the costs:

5.6.1 Costs associated with any unique national requirements identified by a Participant.

5.6.2 Any other costs outside the scope of this MOU and its PAs.

5.7 Under a PA, the Participants may decide that it is necessary for one Participant to incur contractual or other obligations for the benefit of all Participants. In the event one Participant incurs such obligations, the Participants will pay their equitable share of such obligations, make funds available in such amounts and at such times as may be required by the obligations, or pay any damages and costs that may accrue from the performance of or cancellation of the obligation in advance of the time such payments, damages, or costs are due.

5.8 For each PA, the POs will be responsible for establishing the detailed financial management procedures under which the Project will operate. These procedures will be detailed in a financial management policies and procedures document proposed by the POs and subject to the approval of the TTRDP EAs or SC, as appropriate.

5.9 Each Participant will provide funds for each Project in accordance with the estimated schedule of financial contributions contained in the financial management policies and procedures document.

5.10 Each Participant will be responsible for the audit of the procurement activities for which it is responsible pursuant to a PA in accordance with its own national practices. Each Participant's reports of such audits will be promptly made available to the other Participants. For PAs where funds are transferred from one Participant to another Participant, the receiving Participant will be responsible for the internal audit regarding administration of the other Participants' funds in accordance with national practices. Audit reports of such funds will be promptly made available by the receiving Participant to the other Participants.

SECTION VI

CONTRACTUAL ARRANGEMENTS

6.1 If a Participant determines that contracting is necessary to fulfill that Participant's responsibilities under a PA, that Participant will contract in accordance with its respective national laws, regulations and procedures.

6.2 When one Participant individually contracts to undertake a task under a PA, it will be solely responsible for its own contracting, and the other Participants will not be subject to any liability arising from such contracts without their prior written consent.

6.3 If the Participants determine that it is necessary under a PA that one Participant contract on behalf of all Participants for tasks under that TTRDP PA, the Participant will contract in accordance with its respective national laws, regulations and procedures. Such contractual arrangements will be detailed in the particular PA. Sources from all Participants' industries will be allowed to compete on an equal basis for such contracts. The Contracting Officer will be the exclusive source for providing contractual direction and instructions to Contractors. The POs will be responsible for the coordination of activities relating to this MOU and its PAs and will cooperate with the Contracting Officer in the areas of contract procedures, contract negotiation, evaluation of offers, and contract award. The Contracting Officer will also keep the POs advised of all financial arrangements with Contractors.

6.4 For all contracting activities performed by the Participants, the POs will, upon request, provide a copy of all statements of work for information prior to the issuance of solicitations.

6.5 Each Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Project Information required by Section VIII (Disclosure and Use of Project Information). Each Participant's Contracting Agency will insert into its prospective contracts (and require its contractors to insert in subcontracts) suitable terms and conditions to satisfy the requirements of this MOU, including Section VII (Project Equipment), Section VIII (Disclosure and Use of Project Information), Section IX (Controlled Information), Section XI (Security) and Section XII (Third Party Sales and Transfers and Alternative Uses) of this MOU. During the contracting process, each Participant's Contracting Officer will advise prospective Contractors of their obligation to notify the Contracting Agency immediately if they are subject to any license, agreement, or arrangement that will restrict that Participant's freedom to disclose information or permit its use. The Contracting Officer will also advise prospective Contractors to employ their best efforts not to enter into any new agreement or arrangement that will result in restrictions.

6.6 In the event a Participant's Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Section VIII (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Participant's PO will notify the other Participant's PO of the restriction(s).

6.7 Each Participant's PO will promptly advise the other Participant's PO of any schedule delay or other performance problems of any contractor in connection with a contract placed by its Contracting Agency pursuant to a PA.

6.8 Normal contract administrative services support will be provided in accordance with applicable bilateral arrangements between the Participants concerned. Should price or cost investigation services be required, such services will be obtained through the responsible national authorities of the Participant within whose territory the performing contractor or sub-contractor is located, consistent with any existing arrangements between the Participants in that regard.

6.9 No requirement will be imposed by a Participant for work sharing or other industrial or commercial compensation in connection with this MOU and any PA that is not in accordance with this MOU.

SECTION VII

PROJECT EQUIPMENT

7.1 For the purpose of carrying out a PA, each Participant may loan without charge to the other Participant(s) such Project Equipment identified in the PA as being necessary for the corresponding Project. While such loans will be based on the principle of reciprocity, exact item for item exchanges are not required.

7.2 Project Equipment loaned will be used by the receiving Participant(s) only for the purposes of that Project. Project Equipment will remain the property of the providing Participant. In addition, the receiving Participant(s) will maintain Project Equipment in good order, repair, and operable condition and will return it in operable condition and in as good condition as received, normal wear and tear excepted, unless the providing Participant has approved in the PA the expenditure or consumption of Project Equipment as necessary for the purposes of the PA. Such expenditure or consumption will be without reimbursement to the providing Participant. However, the receiving Participant(s) will bear the cost of any damage to (other than normal wear and tear) or loss of Project Equipment loaned to it that is not approved for expenditure or consumption. In no event will such cost exceed replacement cost less an amount determined to represent reasonable wear and tear.

7.3 A PA will provide specific details of any loan of Project Equipment. Project Equipment identified at the time of PA signature will be detailed in the PA as set out in Annex A. Project Equipment which cannot be identified at the time of PA signature will be documented in a list to be developed and maintained by the POs in the format at Annex A. Approval for all loans will be in accordance with national procedures.

7.4 The Participants will make every effort to ensure that the Project Equipment is furnished in a serviceable and usable condition according to its intended purpose. However, the providing Participant makes no warranty or guarantee of fitness of the Project Equipment for a particular purpose or use, and make no commitment to alter, improve, or adapt the Project Equipment or any part thereof.

7.5 The providing Participant will transfer the Project Equipment for the loan period indicated in the PA, unless extended by written amendment, provided that the duration may not exceed the effective period of the PA.

7.6 The providing Participant, at its expense, will deliver the Project Equipment to the receiving Participant(s) at the location(s) mutually approved by the POs. Responsibility for Project Equipment will pass from the providing Participant to the receiving Participant(s) at time of receipt. Any further transportation is the responsibility of the receiving Participant(s).

7.7 The providing Participants will furnish the receiving Participant(s) such information as is necessary to enable the Project Equipment to be used.

7.8 The receiving Participant(s) will inspect and inventory the Project Equipment upon receipt. The receiving Participant(s) will also inspect and inventory the Project Equipment prior to its return (unless the Project Equipment is to be expended or consumed.)

7.9 Upon expiration or termination of the loan period specified in the PA (taking into account any extension), the receiving Participant(s) will return Project Equipment at its expense to the providing Participant at the location mutually approved by the POs. Any further transportation is the responsibility of the providing Participant.

7.10 The receiving Participant(s) will provide written notice of consumption or expenditure of Project Equipment. In the event the intended consumption or expenditure does not occur, the receiving Participant(s) will, unless otherwise determined by the providing Participant, return the Project Equipment to the providing Participant to the location mutually approved by the POs. Any further transportation is the responsibility of the providing Participant.

7.11 The Participants will ensure, by all reasonable means, the protection of intellectual property rights in Project Equipment.

7.12 Any Project Equipment which is jointly acquired on behalf of all the Participants for use under this MOU and any PA will be disposed of as mutually approved by the appropriate Participants during the applicable Project or when the Project ends as decided by the SC. If no SC has been appointed, this decision will be jointly taken by the POs.

7.13. Disposal of jointly acquired Project Equipment may include a transfer of the interest of the Participants in such Project Equipment to one Participant, or the sale of such Project Equipment to a Third Party in accordance with Section XII (Third Party Sales and Transfers and Alternate Uses). The Participants will share the consideration from jointly acquired Project Equipment transferred or sold to a Third Party in the same ratio as costs are shared under this MOU and the PA.